

IN THE BOARD OF SUPERVISORS

County of San Luis Obispo, State of California

_____ day _____, 20____

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION OVERRULING PROTESTS, APPROVING ENGINEER'S REPORT, LEVYING ASSESSMENTS, AND ORDERING THE IMPROVEMENTS FOR THE TRACT 1747 STREETLIGHT ASSESSMENT DISTRICT

WHEREAS, on June 18, 2013, this Board of Supervisors (this "**Board**") initiated special assessment proceedings pursuant to the Landscaping and Lighting Act of 1972 (the "**1972 Act**") for a proposed assessment district to be designated as the "Tract 1747 Streetlight Assessment District" (the "**Assessment District**") by adoption of Resolution No. 2013-141, entitled "Resolution of Intention to Establish the Tract 1747 Streetlight Assessment District Pursuant to the Landscaping and Lighting Act of 1972 and Calling and Giving Notice of the Holding of an Assessment Proceeding to be Held on August 13, 2013, for the Parcel of Tract 1747, County of San Luis Obispo," by which this Board approved a map entitled "Assessment Diagram Tract 1747 Streetlight Assessment District San Luis Obispo County, State of California," and adopted the boundaries shown on such map as describing the extent of the territory proposed to be included in the proposed Assessment District; and

WHEREAS, on June 18, 2013, this Board also adopted in Resolution No. 2013-141 provisions, among others, which declared this Board's intention to conduct the appropriate 1972 Act legal proceedings for establishment of the Assessment District, leading to the levy of a special assessment upon those parcels of land within the Assessment District which are determined to be specially benefited by the continued operation of the improvements (the "**Proposed Project**") to the streetlight system of Tract 1747; and

WHEREAS, in accordance with the foregoing directive, the Engineer of Work prepared and filed its written report (the "**Engineer's Report**") with the Clerk of the Board, and this Board then tentatively approved the Engineer's Report, scheduled the required public hearing for August 13, 2013, and directed the Clerk of the Board to cause a notice of said public hearing, together with assessment ballots, to be prepared and distributed by first class mail to the affected property owners in the time, form and manner provided by law; and

WHEREAS, prior to the August 13, 2013 public hearing, the County provided for any interested persons the opportunity to ask questions and make comments on the proposed assessment; and

WHEREAS, in conformity with the provisions of Resolution No. 2013-141, notices of hearing and assessment ballots were prepared, setting forth certain information about the Assessment District proceedings, the Proposed Project, the amount of the proposed individual assessments and related matters, as provided by law, and were mailed by first-class mail, postage prepaid, with said mailing having been completed more than 45 days prior to the hearing date of August 13, 2013, as evidenced by the executed Certificate of Mailing which is on file with the Clerk of the Board; and

WHEREAS, the public hearing was conducted by this Board on August 13, 2013, as scheduled and noticed, and this Board, having provided opportunity at said hearing for any interested person present to be heard, then closed the hearing; and

WHEREAS, following the close of the public hearing, the property owner assessment ballots which had been submitted to the Clerk of the Board prior to the close of the public hearing were referred to the Clerk of the Board, who was instructed to direct and supervise the public opening and tally of the ballots; and

WHEREAS, the Clerk of the Board has reported to this Board that, of the ballots received prior to the closing of the hearing, 37 effective ballots representing a total assessment amount of \$1,915.01 were submitted in favor of the proposed levy of assessments and 19 effective ballots representing a total assessment amount of \$983.38 were submitted in opposition; and

WHEREAS, based upon this report of the Clerk of the Board, and this Board having taken into consideration that the invalid ballots were not sufficient to affect the outcome of the protest procedure even if they had all been effective and had been submitted in opposition, this Board finds and determines that there was not a majority protest as provided by Article XIID of the California Constitution and Section 53753 of the California Government Code; and

WHEREAS, it having been determined that there was not a majority protest, this Board wishes to: (a) approve the Engineer's Report for the Assessment District, (b) levy the individual special assessments in the amounts set forth in the Engineer's Report, and (c) order the operation and maintenance which constitute the Proposed Project; and

WHEREAS, based upon consideration of all of the information received by members of this Board in connection with the Assessment District, including but not limited to the information set forth in the Engineer's Report and the testimony received at the public hearing held on August 13, 2013, this Board believes that the protests submitted should be overruled and that the Assessment District should proceed without modification of the recommendations set forth in the Engineer's Report; and

WHEREAS, this Board finds and determines that the proposed allocation of the estimated cost and expense of the Proposed Project and related incidental expenses to the respective parcels of land in the Assessment District, as set forth in the Engineer's Report, utilizing the method of apportionment set forth in said Engineer's Report, represents a fair and equitable apportionment of such cost and expenses in proportion to the estimated benefits to be received by each of the benefited parcels, respectively, from the Proposed Project.

NOW, THEREFORE, THE BOARD OF SUPERVISORS HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. The foregoing recitals are true and correct, and this Board expressly so finds and determines.
2. This Board hereby finds and determines, based upon all of the information known to this Board and presented in the record of these proceedings, that the recommendations set forth in the Engineer's Report are in conformity with legal standards and requirements and that the recommended individual special assessments has been established in a fair and equitable manner, reflecting the estimated special and local benefit to the respective parcels in proportion to such estimated benefits.
3. There was not a majority protest as provided by Article XIID of the California Constitution and Section 53753 of the California Government Code.
4. The protests submitted prior to and at the public hearing on August 13, 2013, are hereby overruled.
5. The Engineer's Report, as filed by the Engineer of Work, is hereby approved by this Board without modification.
6. The individual assessments, in the amounts stated in Table 2 of the Engineer's Report, are hereby confirmed and levied; this action is final as to all persons.
7. The maintenance, operation and related assessment work and services that comprise the Proposed Project, as described in the Engineer's Report, are hereby ordered.
8. The assessment diagram, as set forth in Part V of the Engineer's Report, shall be filed for record in the office of the County Recorder for San Luis Obispo County by the Clerk of the Board.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Luis Obispo, held on _____, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

the foregoing Resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL
County Counsel

By: 
Deputy County Counsel

Dated: August 28, 2013

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STATE OF CALIFORNIA, }
County of San Luis Obispo, ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____
day of _____, 20 _____.

(SEAL)

County Clerk and Ex-Officio Clerk of the Board
of Supervisors

By _____
Deputy Clerk.